



LINA HIDALGO

April 8, 2020

The Hon. Lee H. Rosenthal
Chief Judge, Southern District of Texas
Bob Casey United States Courthouse
515 Rusk Avenue
Houston, TX 77002

Re: **Advisory in *Russell, et al. v. Harris County, Texas, et al.*, 4:19-cv-00226 (S.D. Tex.) (Rosenthal, C.J.)**

Dear Chief Judge Rosenthal:

I write to advise the Court regarding the views of the Hon. Lina Hidalgo, Harris County Judge regarding the expedited release of non-violent individuals from the Harris County Jail. Judge Hidalgo's has directed me to express her views here solely in her capacity as the emergency management director for Harris County pursuant to section 418.1015 of the Texas Government Code. That also is the capacity in which her Order of April 1, 2020, directing the expedited release of certain non-violent individuals from the Harris County Jail was signed.

You have sought Judge Hidalgo's views regarding the resolution of two issues:

- (1) How the Harris County Sheriff should proceed regarding those jailed individuals who the Sheriff, the District Attorney, the Public Defender, and Pretrial Services agree are non-violent; and
- (2) How the Harris County justice system should proceed regarding those jailed individuals whose non-violent status is disputed.

Procedures for Expediting Release of Non-Violent Detainees in Harris County Jail

With regard to the former, Judge Hidalgo's preference is that the undisputedly non-violent individuals in the Harris County Jail system should be released on an expedited basis by Harris County Sheriff Ed Gonzalez. She proposes to effect that release – and is prepared to sign an Order in her capacity as emergency management director for Harris County – by instituting a new procedure to speed the process of release for those in the jail who meet the following criteria for non-violence:

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Any detainee in the Harris County Jail system held on one or more non-violent charges who:

1. has not previously been convicted of a crime that involves physical violence or the threat of physical violence;
2. is not currently arrested for a crime that involves physical violence or the threat of physical violence that is supported by probable cause;
3. is not the subject of any protective order, including a Magistrate's Order of Emergency Protection; and
4. is not being held on one or more charges of DWI (3rd or more), burglary (habitation), which are exceptions to the release of detainees held on non-violent charges.

Under the proposed Order, Judge Hidalgo would direct Sheriff Gonzalez to provide a list of all jailed individuals who meet the above criteria to Harris County Pretrial Services, which would determine if any of the individuals identified by the Sheriff have been convicted of violent crime. The proposed Order would direct Sheriff Gonzales to provide the same list provided to Pretrial Services to the Harris County District Attorney's Office, the Harris County Public Defender, and the Harris County Community Supervision and Corrections Department ("the stakeholders") for their information.

For those individuals who Pretrial Services determines are qualified for release, Judge Hidalgo's proposed Order would set a timeline that requires Pretrial Services to begin providing a Personal Bond release order for individual person meeting the non-violence criteria to Sheriff Gonzalez (or his designee) within 24 hours after the initial distribution of any list to Pretrial Services and stakeholders. Within 32 hours of providing lists of detainees to Pretrial Services, the Sheriff would be authorized to release detainees on Personal Bond that Pretrial Services had identified as eligible for release.

Pretrial Services would be authorized under Judge Hidalgo's proposed Order to impose non-financial conditions on detainees released on Personal Bond to promote public safety and ensure appearance in court. Non-financial conditions of release would include, but would not be limited to, protective orders, drug testing, and GPS monitoring. Detainees released under Judge Hidalgo's proposed Order would be required to agree to the conditions of release in the Personal Bond and sign the Personal Bond in order for the Personal Bond to be valid. All detainees approved for release on Personal Bond under the authority of Judge Hidalgo's proposed Order would be supervised by Pretrial Services.

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Any detainee released in accordance with Judge Hidalgo's proposed Order who is arrested and charged with the commission of a new offense would not be eligible for later release under the Order.

The Harris County District Clerk's Office would be directed to file records of the Personal Bond prepared by Pretrial Services consistent with the existing filing policy for Personal Bonds.

All individuals on any list provided to Pretrial Services would be screened for the symptoms of COVID-19 before they could be released. The Sheriff would be authorized to release any individuals who present symptoms of COVID-19, as identified by the Centers for Disease Control and Prevention only after clearance by a qualified medical professional.

Procedures for Harris County Jail Detainees whose Non-Violent Status is Disputed

For those individuals Pretrial Services finds are not qualified for release because of a violent conviction or current violent charge, Judge Hidalgo would propose that Sheriff Gonzalez provide a list of those individuals to the Criminal District Court judges so that they could set an individualized hearing for those individuals.

I hope this is helpful to the Court and would be pleased to answer any questions the Court might have regarding this advisory.

Very truly yours,



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*Legal Counsel to Hon. Lina Hidalgo,
Harris County Judge*

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CERTIFICATE OF SERVICE

On this, the 8th day of April, 2020, I certify under penalty of perjury that I filed this Advisory and the attached Appendices via the CM/ECF system and served this Advisory upon the parties to *Russell, et al. v. Harris County, Texas, et al.*, 4:19-cv-00226 (S.D. Tex.) (Rosenthal, C.J.) via use of the CM/ECF system.


Kathryn M Kase